

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

STACY S.; and JOHN and MARY ELLEN	)	Docket No. 04-150E
S., on behalf of their daughter, LEIGH	)	(Judge Sean J. McLaughlin)
ANN S., a minor,)	
	)	ELECTRONICALLY FILED PLEADING
Plaintiffs,)	
	)	JURY TRIAL DEMANDED
vs.)	
	)	MOTION TO COMPEL COMPLIANCE
GIRARD SCHOOL DISTRICT;	)	WITH SUBPOENA DIRECTED TO KELLI
ROBERT SNYDER, Individually and in	)	KERSNICK
his capacity as Principal of the Rice)	
Avenue Middle School; and GREGORY	)	Filed on behalf of: Defendants Girard School
YARBENET, a professional employee of	)	District and Robert Snyder
the Girard School District,)	
	)	Counsel of record for these parties:
Defendants)	
	)	Richard A. Lanzillo, Esq.
	)	Knox McLaughlin Gornall
	)	& Sennett, P.C.
	)	120 West 10 th Street
	)	Erie, PA 16501
	)	Telephone (814) 459-2800
	)	Facsimile (814) 453-4530
	)	Email rlanzillo@kmgslaw.com
	)	PA53811

MOTION TO COMPEL COMPLIANCE WITH
SUBPOENA DIRECTED TO KELLI KERSNICK

Defendants Girard School District and Robert Synder through their counsel, Knox McLaughlin Gornall & Sennett, P.C., respectfully move the Court for an Order compelling the attendance of witness Kelli Kersnick to appear for deposition pursuant to subpoena, and state in support as follows:

1. Plaintiffs have identified Kelli Kersnick as a person who has knowledge relevant to this case and upon whom they will rely, in part, in support of their claims.

2. Plaintiffs have produced an affidavit from Ms. Kersnick, a copy of which is attached hereto as Exhibit A.

3. Defendants Girard School District and Robert Snyder have sought to conduct the deposition of Ms. Kersnick. On or about July 19, 2005, these defendants served Ms. Kersnick with a subpoena directing her attendance at deposition on July 22, 2005. The subpoena was accompanied by the required statutory witness fee and mileage reimbursement. Ms. Kersnick cashed her statutory witness fee and mileage reimbursement check on July 22, 2005.

4. On July 22, 2005, the date of her scheduled deposition, Ms. Kersnick notified counsel by telephone that she would not be appearing for her deposition because a storm had knocked over a tree which was blocking her driveway.

5. Defendants Girard School District and Robert Snyder then rescheduled the deposition of Ms. Kersnick for September 23, 2005. However, on the morning of September 22, 2005, a friend of Ms. Kersnick's contacted plaintiff's counsel and advised him that Ms. Kersnick would not be appearing for her deposition due to illness.

6. Counsel for these defendants is willing to accommodate any physical limitations that Ms. Kersnick may have and, if necessary, to travel to her home to conduct her deposition.

7. Based upon past experience, it is averred that Ms. Kersnick will not voluntarily appear for her deposition absent a Court Order.

8. Contemporaneous with the filing of this motion, these defendants have served a copy of this motion upon Ms. Kersnick by regular and certified mail.

WHEREFORE, defendants Girard School District and Robert Snyder respectfully request that the Court enter an Order directing Kelli Kersnick to appear for deposition on Friday,

October 7, 2005 at 10:00 a.m. at the offices of Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, Pennsylvania 16501 or, in the alternative, if Ms. Kersnick's physical condition limits her ability to travel, at such other location as the Court may designate.

Respectfully admitted,

KNOX McLAUGHLIN GORNALL &
SENNETT, P.C.

BY: /s/ Richard A. Lanzillo, Esq.

Richard A. Lanzillo, Esquire
120 West Tenth Street
Erie, PA 16501
Telephone (814) 459-2800
Facsimile (814) 453-4530
Email rlanzillo@kmgslaw.com
PA53811

Attorneys for defendants, Girard School
District, Robert Snyder, Individually and in
his capacity as Principal of the Rice Avenue
Middle School

635043